

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

WENDALL JEFFERSON,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	3:06cv60-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION AND ORDER

On May 14, 2007 (Doc. no. 14), the magistrate judge entered a recommendation that the 28 U.S.C. § 2255 habeas petition filed by petitioner Wendall Jefferson be denied because his claims entitled him to no relief. There being no objections filed to the recommendation, the court entered an order adopting the recommendation on June 5, 2007 (Doc. no. 15), and entered a final judgment on the same day (Doc. no. 16).

On June 11, 2007 (Doc. no. 17), Jefferson filed a pleading styled as a "Motion Under Rule 4(a)(6)(B).

Time.”¹ In this motion, Jefferson states that he never received a copy of the magistrate judge's recommendation and that, consequently, he was denied the opportunity to file timely objections to the recommendation. Jefferson states that he did not learn of the magistrate judge's recommendation until June 8, 2007, when he received a copy of this court's order dismissing his § 2255 petition. Accordingly, he requests that this court “reopen the Order of Recommendation” so that he may file objections to the recommendation. The court construes Jefferson's instant pleading to contain a motion for extension of time to file objections to the recommendation.

1. Although Jefferson's motion was date-stamped “received” in this court on June 13, 2007, the court under the “mailbox rule” deems his motion filed on the date he delivered it to prison authorities for mailing, presumptively, June 11, 2007, the day that he signed it. See Houston v. Lack, 487 U.S. 266, 271-72 (1988); Washington v. United States, 243 F.3d 1299, 1301 (11th Cir. 2001).

In light of the foregoing, and for good cause, it is ORDERED, pursuant to Fed.R.Civ.P. 59(e), as follows:²

(1) Petitioner Wendall Jefferson's motion for extension of time (Doc. no. 17) is granted.

(2) The order and final judgment entered on June 5, 2007 (Doc. nos. 15 & 16), are vacated.

(3) Petitioner Jefferson is allowed until July 9, 2007, to file his objections to the recommendation entered on May 14, 2007 (Doc. no. 14).

(4) This case is referred back to the magistrate judge for further proceedings.

DONE, this the 21st day of June, 2007.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

2. Rule 59(e) provides that "[a]ny motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment."